

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8384 of 1991

Date of decision: 25-3-1997

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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Kishorbhai B. Patel .

Versus

State of Gujarat  
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Appearance:

MR YN OZA for Petitioner

GOVERNMENT PLEADER for Respondent No. 1

SERVED for Respondent No. 2  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 27/03/97

ORAL JUDGEMENT

The petitioner, by this special civil

application, challenges the action of the respondents in not condoning the break of 17 days in his service. The orders of the respondents under which they refused to condone the break in service of the petitioner are dated 6-12-1990, 7-7-1989 and 1-11-1988. The petitioner, at the relevant time, was working as District Planning Officer in the office of the Collector, Ahmedabad. It is not in dispute that he retired on 31-12-1991 after filing of this special civil application.

2. The petitioner joined as Primary School Teacher in the District Panchayat, Ahmedabad on 1-10-1953, on which post he served till 1st March, 1968. With the prior permission of the employer the petitioner appeared in the competitive examination held by the Gujarat Public Service Commission in the year 1967 for the post of Taluka Development Officer. He was ultimately selected for that post. He resigned from his earlier employment on 1-3-1968, and joined the post of Taluka Development officer on 17-3-1968. Thus there is break in between the two services rendered by the petitioner in the Panchayat and the Government. The counsel for the petitioner, by making reference to the resolution of the Government dated 7th February, 1978 contended that the resolution empowers the competent authority to condone the break in service of the Government servant, who earlier served in the Panchayat service.

3. Learned counsel for the respondents does not dispute the aforesaid resolution. The orders which have been passed in regard to claim of the petitioner for condonation of break in service are not speaking orders.

4. In above view of the matter, respondent No.1 is directed to consider the matter afresh with reference to the aforesaid resolution of the Government regarding condonation of break in service of the petitioner. The matter may be considered and decided within a period of three months from the date of the receipt of the certified copy of this order. If it is so prayed, the petitioner may be given an opportunity of hearing before deciding his claim. In case the claim of the petitioner for condonation of break in service is not acceptable, it is expected of respondent No.1 to pass speaking order and copy of the same may be sent to the petitioner by registered post. In case the claim of the petitioner for condonation of break in service is accepted, then he shall be entitled to all the consequential benefits and those benefits shall be given to the petitioner within a period of six months thereafter. Subject to the

aforesaid directions, the special civil application stands disposed. Rule discharged. No order as to costs.

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